April 1, 2016

Via Electronic Submittal & Email

Rajinder Sahota
Chief, Climate Change Program Evaluation Branch
California Air Resources Board
Stationary Source Division
1001 I Street
Sacramento, CA 95812
rsahota@arb.ca.gov

Re: Kimberly-Clark Comments on ARB's March 29, 2016 Public Workshop

Dear Ms. Sahota,

I write to provide the comments of Kimberly-Clark Worldwide, Inc. ("Kimberly-Clark") on the public workshop that the California Air Resources Board ("ARB") conducted on March 29, 2016 and in particular that portion of the workshop that addressed ARB staff's proposal regarding Cap and Trade Regulation amendments consisting of "Updates to Benchmarks for CP3 (2018-2020)." These are summarized on Slide 17 of ARB's presentation for the meeting.

Kimberly-Clark is one of only two companies still manufacturing tissue products in California. Our Fullerton Tissue Facility in Orange County employs approximately 350 highly-skilled Californians in the production of Kleenex Facial Tissue, Scott Bath Tissue and KIMTECH wipers used in clinical and scientific settings. Aside from our positive economic impact through payroll, taxes and business done with California vendors, K-C Fullerton takes great care to limit our impact on natural resources, energy supply and infrastructure and the community in general. We supply our own electricity and steam through a high-efficiency on-site energy plant, recycle or repurpose 100% of our manufacturing waste, and are executing a long-term water conservation strategy exceeding government mandates. Kimberly-Clark's "Made in California" products proudly represent our sustainable approach to manufacturing.

As a manufacturer of tissue products, Kimberly-Clark received ARB's March 23, 2016 email notice to Covered Tissue Manufacturing Facilities (the "March 23 Notice") stating that the tissue sector was one of those for which ARB would be considering changes to the product-based greenhouse gas ("GHG") emission benchmarks for the third compliance period (2018-2020). The March 23 Notice also requested information regarding a number of topics relating to the tissue benchmarks. Kimberly-Clark has provided a great deal of information to ARB regarding these benchmarks. Nonetheless, we will consider providing additional information to ARB staff as requested in the March 23 Notice. However, in light of the relatively tight rulemaking schedule that was described at the workshop, we believe it important to promptly deliver our core comments on ARB's apparent approach to its reconsideration of the benchmark for bathroom tissue, a.k.a. toilet paper.

The March 23 Notice states that ARB staff is re-evaluating the tissue sector benchmarks in order to "strengthen the accuracy and efficiency of the benchmarks if and as incorporated within the context of existing benchmarking policies." Kimberly-Clark welcomes ARB's decision to re-evaluate the current tissue benchmarks that were adopted in 2014 and to do so with an eye toward consistency with ARB's benchmarking guidance. This is critical because the current benchmark for bathroom tissue is out of line with ARB's guidance. Indeed, it simply makes no sense.

By our count, the Cap-and-Trade Regulation has 77 distinct product-based benchmarks across 32 different industrial sectors. Of these, the vast majority – 73 of the 77 – are consistent with ARB's 2011 guidance for the development of product-based benchmarks. They are based on the "production-weighted average emissions intensity" for the given finished product; in other words, GHG emissions per ton of product produced. (July 25, 2011 Initial Statement of Reasons, Appendix B, Development of Product Benchmarks for Allowance Allocation, at 3.) For some liquid products the unit might be a gallon or a barrel instead of a ton, but the principle is the same. For ease of reference we'll refer to this here as the tonnage methodology. We were pleased to see in ARB's presentation at the March 29 public workshop that for the post-2020 period CARB proposes to maintain the tonnage methodology, though refining it to include net electricity and steam emissions.

Only four of the 77 product-based benchmarks depart from the standard tonnage methodology set forth in ARB's 2011 guidance and include additional "adjustment factors": those for aseptic and non-aseptic tomato paste, cement, and bathroom tissue. It is not clear why these four products are singled out for special treatment.

In the case of bathroom tissue, the current benchmark for allowances is per "Air Dried Short Ton of Bathroom Tissue produced *adjusted by water absorption capacity*." This adjustment factor was added in 2014. The original benchmark adopted in 2011 used the simple tonnage methodology and applied it to all tissue products in the industrial sector of "paper mills not including newsprint." In 2014, ARB segmented the tissue benchmark into for four product types – bathroom tissue, facial tissue, delicate task wipers, and paper towel – and singled-out bathroom tissue for the water absorbency adjustment factor.

This adjustment factor departs not only from the three other tissue types and the vast majority of product-based benchmarks that are consistent with ARB's guidance, it also is at odds with the leading precedent in this field: the European Union's Emissions Trading Scheme. The EU's greenhouse gas emission benchmark for tissue products uses a simple tonnage methodology. Kimberly-Clark has consistently pointed out that there is no scientific basis for using water absorbency as a measure of toilet paper's greenhouse gas emission intensity. As you know, last November Kimberly-Clark filed a legal challenge to this benchmark.

Kimberly-Clark thus was pleased to learn last week that ARB is reopening the tissue benchmarks and heartened to see it as a topic for Tuesday's workshop. However, Kimberly-Clark is disheartened by ARB's decision to explore the relationship between the amount of bathroom tissue a consumer uses per visit to the toilet and the greenhouse gas emission intensity for the production of that bathroom tissue. ARB's March 23 Notice states: "For bathroom tissue, staff requests any studies/information/data that demonstrate or describe the relationship between usage (amount of bathroom tissue consumed per visit) and greenhouse gas (GHG) emissions." Kimberly-Clark strongly urges ARB to reconsider going down this road. We encourage ARB instead to do away with adjustment factors for toilet paper altogether and use the simple tonnage methodology specified in its 2011 guidance and used for the vast majority of GHG emission benchmarks for other products.

Tying an allowance for GHG emissions to how much bathroom tissue individuals use on each trip to the toilet borders on the absurd. Just consider the data collection that would be necessary to support such a benchmark, not to mention the reliability of that data. Collecting the data would require social science studies regarding very personal decisions about how much toilet paper is used each time one goes to the bathroom, whether in or outside of the home, and it would necessarily delve into different types of people, different wiping needs and different types of toilet paper. How much and what kind of toilet paper do you use when you go to the bathroom? Is the amount or type different from that used by your neighbor or persons of different genders, cultures, age groups or medical conditions? Basing a regulation on such data would raise a host of questions regarding how the data was collected and the data's reliability. These questions likely would include concerns about government intrusion not just into someone's home but behind their closed bathroom door or stall.

There is no compelling rationale for ARB to treat the benchmark for bathroom tissue differently from numerous other everyday consumer goods for which the GHG emission benchmarks use the standard tonnage methodology, products such as cheese, potato chips, wine and beer. ARB is not proposing to regulate the carbon intensity for the production of these consumer goods by determining how many or what kind of potato chips people chomp with their beer, nor how much or what kind of cheese people nibble with their wine, much less how much beer or wine different people drink. As with toilet paper, it is difficult to see how the carbon intensity of these products could be determined reliably by consumer usage without an unprecedented invasion of privacy. To our knowledge, ARB has never before suggested doing so with any product benchmark.

As with the benchmarks for these consumer goods, none of ARB's product benchmarks for other paper-pulp based products have any sort of adjustment factor. For example, those for the manufacture of recycled boxboard, recycled linerboard, and recycled fluting all use the simple tonnage methodology. As noted above, the same is true for the three other tissue products, facial tissue, delicate task wipers, and paper towel – and all of these products are *made at the same facilities and on the same machines* as is bathroom tissue.

ARB's decision to adjust the product benchmark for bathroom tissue, first by water absorbency and now potentially by consumer usage, is out of step with ARB's guidance and its practice for other goods. As noted above, of the 77 product-based benchmarks, only three others have adjustment factors. Certainly the production of bathroom tissue has more in common with that of other paper pulp-based products and other household consumer goods than it does with those for cement blocks and tomato paste. ARB's decision to treat bathroom tissue differently lacks any scientific basis, is unjustified, unnecessary, and inconsistent with both ARB's guidance and the established precedent of the EU.

Once again, Kimberly-Clark welcomes ARB's reopening of the flawed 2014 tissue benchmarks. Kimberly-Clark strongly encourages ARB to revise the benchmark for bathroom tissue to do away with any sort of adjustment factors and instead bring it back into line with ARB's guidance and EU precedent by basing it on the standard tonnage methodology used for the vast majority of other products.

Sincerely,

Jim Roeder

Jim Roeder

cc: Mary Jane Coombs, Manager, Climate Change Program Development Section (*via email*) (mcoombs@arb.ca.gov)
Mihoyo Fuji, Air Pollution Specialist (*via email*)(mfuji@arb.ca.gov)
Kyle Graham, Esq., Senior Staff Counsel (*via email*)(Kyle.Graham@arb.ca.gov)